

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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CHARLES DEJUAN MORRIS,

Case No. 3:13-cv-00137-MMD-VPC

Petitioner,

AMENDED ORDER

v.

ISIDRO BACA, et al.,

Respondents.

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254, by a Nevada state prisoner. On September 19, 2013, the Court entered an order requiring petitioner to pay the \$5.00 filing fee for this action within thirty (30) days. (Dkt. no. 13). The thirty-day period has now expired, and petitioner has not paid the filing fee or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and "in the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal of a case." *Thompson v. Housing Auth.*, 782 F.2d 829, 831 (9<sup>th</sup> Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules. See, e.g. *Pagtalunan v. Galaza*, 291 P.3d 639, 643 (9<sup>th</sup> Cir. 2002) (dismissal of habeas corpus petition with prejudice for failure to prosecute action and failure to comply with a court order); *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9<sup>th</sup> Cir. 1995) (dismissal for noncompliance with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9<sup>th</sup> Cir. 1992) (dismissal for

1 failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856  
2 F.2d 1439, 1440-41 (9<sup>th</sup> Cir. 1988) (dismissal for failure to comply with local rule  
3 requiring *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal*  
4 *Service*, 833 F.2d 128, 130 (9<sup>th</sup> Cir. 1987) (dismissal for failure to comply with court  
5 order); *Henderson v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of  
6 prosecution and failure to comply with local rules).

7 In determining whether to dismiss an action for lack of prosecution, failure to  
8 obey a court order, or failure to comply with local rules, the court must consider several  
9 factors: (1) the public's interest in expeditious resolution of litigation; (2) the court's need  
10 to manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy  
11 favoring disposition of cases on their merits; and (5) the availability of less drastic  
12 alternatives. *Pagtalunan*, 291 F.3d at 642; *Thompson*, 782 F.2d at 831; *Henderson*, 779  
13 F.2d at 1423-24; *Malone*, 833 F.2d at 130; *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46  
14 F.3d at 53.

15 The Court finds that the first two factors, the public's interest in expeditiously  
16 resolving this litigation and the Court's interest in managing the docket, weigh in favor of  
17 dismissal. The third factor, risk of prejudice to respondents, also weighs in favor of  
18 dismissal, since a presumption of injury arises from the occurrence of unreasonable  
19 delay in filing a pleading ordered by the court or prosecuting an action. *See Anderson v.*  
20 *Air West*, 542 F.2d 522, 524 (9<sup>th</sup> Cir. 1976). The fourth factor — public policy favoring  
21 disposition of cases on their merits — is greatly outweighed by the factors in favor of  
22 dismissal discussed herein. Finally, given petitioner's failure to obey the Court's order  
23 and failure to otherwise prosecute this action, no lesser alternative other than dismissal  
24 is appropriate.

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1 It is therefore ordered that this action is dismissed without prejudice based on  
2 petitioner's failure to pay the filing fee in compliance with this Court's order of  
3 September 19, 2013.

4 It is further ordered that the Clerk of Court shall enter judgment accordingly.

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6 DATED THIS 17<sup>th</sup> day of January 2014.

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9 MIRANDA M. DU  
10 UNITED STATES DISTRICT JUDGE  
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